

## § 723.5

unions to the extent they are consistent with this part. Except as required by part 741 of this chapter, federally insured state-chartered credit unions are not required to comply with the provisions of § 701.21(a) through (g) of this chapter.

[64 FR 28729, May 27, 1999, as amended at 66 FR 65624, Dec. 20, 2001]

### § 723.5 How do you implement a member business loan program?

The board of directors must adopt specific business loan policies and review them at least annually. The board must also utilize the services of an individual with at least two years direct experience with the type of lending the credit union will be engaging in. Credit unions do not have to hire staff to meet the requirements of this section; however, credit unions must ensure that the expertise is available. A credit union can meet the experience requirement through various approaches. For example, a credit union can use the services of a credit union service organization, an employee of another credit union, an independent contractor, or other third parties. However, the actual decision to grant a loan must reside with the credit union.

### § 723.6 What must your member business loan policy address?

At a minimum, your policy must address the following:

- (a) The types of business loans you will make;
- (b) Your trade area;
- (c) The maximum amount of your assets, in relation to net worth, that you will invest in business loans;
- (d) The maximum amount of your assets, in relation to net worth, that you will invest in a given category or type of business loan;
- (e) The maximum amount of your assets, in relation to net worth, that you will loan to any one member or group of associated members, subject to § 723.8;
- (f) The qualifications and experience of personnel (minimum of 2 years) involved in making and administering business loans;
- (g) A requirement to analyze and document the ability of the borrower to repay the loan;

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(h) Receipt and periodic updating of financial statements and other documentation, including tax returns;

(i) A requirement for sufficient documentation supporting each request to extend credit, or increase an existing loan or line of credit (except where the board of directors finds that the documentation requirements are not generally available for a particular type of business loan and states the reasons for those findings in the credit union's written policies). At a minimum, your documentation must include the following:

- (1) Balance sheet;
- (2) Cash flow analysis;
- (3) Income statement;
- (4) Tax data;
- (5) Analysis of leveraging; and
- (6) Comparison with industry average or similar analysis;
- (j) The collateral requirements must include:
  - (1) Loan-to-value ratios;
  - (2) Determination of value;
  - (3) Determination of ownership;
  - (4) Steps to secure various types of collateral; and
  - (5) How often the credit union will re-evaluate the value and marketability of collateral;
- (k) The interest rates and maturities of business loans;
- (l) General loan procedures which include:
  - (1) Loan monitoring;
  - (2) Servicing and follow-up; and
  - (3) Collection;
- (m) Identification of those individuals prohibited from receiving member business loans.

### § 723.7 What are the collateral and security requirements?

(a) Unless your Regional Director grants a waiver, all member business loans must be secured by collateral as follows:

Lien	Minimum loan to value requirements
All .....	LTV ratios for all liens cannot exceed 80% unless the value in excess of 80% is covered through private mortgage or equivalent insurance but in no case can it exceed 95%.